

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-cv-329-GKF(SAJ)
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**STATE OF OKLAHOMA'S MOTION TO STRIKE "DEFENDANTS' REPLY
ON THEIR MOTION TO STRIKE OR EXTEND RESPONSE DEADLINE
AND FOR ESTABLISHMENT OF SCHEDULE FOR RESOLVING PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION" [DKT #1394]**

COMES NOW Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA (the "State"), and moves to strike "Defendants' Reply on Their Motion to Strike or Extend Response Deadline and for Establishment of Schedule for Resolving Plaintiff's Motion for Preliminary Injunction" [DKT #1394] on the ground that it contains an improper and unfounded attack on the State's counsel in violation of LCvR 83.7 and 83.8 and this Court's admonition at the June 15, 2007 hearing. In support of this motion, the State states:

1. On December 5, 2007, Defendants filed "Defendants' Reply on Their Motion to Strike or Extend Response Deadline and for Establishment of Schedule for Resolving Plaintiff's Motion for Preliminary Injunction" [DKT #1394].

2. On page 10 of that filing, Defendant cited to and discussed a recent newspaper op-ed piece, to wit: "In a recent op-ed piece published in the Tahlequah Daily Press, Rick Stubblefield, former chairman and current member of the Oklahoma Scenic Rivers Commission,

the agency with primary environmental responsibility for the Illinois River, described Plaintiff Edmondson's 'preliminary' injunction motion as an attempt to 'promote a lawsuit like a carnival huckster.'"¹

3. LCvR 83.7(b) states: [L]awyers appearing in this Court shall adhere to the following: . . . (14) Avoid disparaging personal remarks or acrimony toward opposing counsel"

4. LCvR 83.8(e) states: "Lawyers should treat each other . . . with courtesy and civility and conduct themselves in a professional manner at all times."

5. LCvR 83.8(k) states: "Effective advocacy does not require antagonistic or obnoxious behavior and members of the bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect."

6. At the June 15, 2007 hearing, this Court stated: "Two other housekeeping matters, I think I need to, after reading some of these briefs, read a provision in the local rules, specifically local Civil Rule 83.8 on standards of practice specifically subsection E states, 'Lawyers should treat each other, the opposing party, the Court and the members of the court staff with courtesy and civility and conduct themselves,' excuse, me 'in a professional manner at all times.' And that includes in the briefs. Apparently the standards, it's a little rough and tumble sometimes in Washington, D.C. Let me just respectfully suggest that maybe those standards should be modified somewhat for presentation in the briefs in the Northern District of Oklahoma. Point taken?" June 15, 2007 Transcript, 80:2-13.

¹ The State is the plaintiff in this action. Attorney General Edmondson is not the plaintiff in this action; rather, he is the lead attorney for the State. *See* "Motion for Protective Order with Respect to Defendant Simmons Foods, Inc.'s Notice of Deposition of Oklahoma Attorney General W.A. Drew Edmondson." [DKT #1033]

7. The inclusion of this citation and discussion to and discussion of this article plainly amounts to an improper and unfounded attack on the State's counsel in violation of LCvR 83.7 and 83.8, as well as this Court's admonition at the June 15, 2007 hearing.

8. While Defendants may not agree with the relief being sought by the State, there is no reason for Defendants to make attacks on the State's counsel. It demeans the judicial system and the legal profession. Inasmuch as this is (at least) the second time this has occurred, "Defendants' Reply on Their Motion to Strike or Extend Response Deadline and for Establishment of Schedule for Resolving Plaintiff's Motion for Preliminary Injunction" [DKT #1394] should be stricken in its entirety.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December, 2007, I electronically transmitted the above and foregoing pleading to the Clerk of the Court using the ECF System for filing and a transmittal of a Notice of Electronic Filing to the following ECF registrants:

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